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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/709,642

05/19/2004

Ming-Kuo Cheng

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ZEROPLUS TECHNOLOGY CO., LTD.

2F-4, NO. 184, SEC. 4, CHUNG HSIAO EAST ROAD

TAIPEI,

TAIWAN

EXAMINER

HSU, RYAN

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

01/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/709,642

Applicant(s)

CHENG ET AL.

Examiner

Ryan Hsu

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No.10/709643. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are both directed towards a video game system having a sound device that incorporate a game controller that comprises a first, second, and third control circuit wherein a first communication interface and a second communication interface and buttons. The claims of the co-pending applications also are directed towards a sound device that incorporates a third control circuit that has a speaker and microphone

with a regulator switch that is to allow a player to communicate with other players during the play of an online video game..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-8, 10-17, and 19-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danieli et al. (US 2003/0216181 A1).

Regarding claims 1, 10, and 17, Danieli et al. teaches a video game system having a sound device comprising a video game player and a game controller wherein the game controller comprises of a memory card slot and buttons (*see 104b, memory card adaptor [140] of Fig. 1 and the related description thereof*). Additionally, Danieli teaches a sound adapter that comprises a second control circuit, a microphone switch (*see [144] of Fig. 1 and the related description thereof*), a volume regulator and a memory card slot that is adapted for receiving peripheral devices. Danieli's sound adapter also teaches a headset jack that is connected to the second control circuit (*see [140], [144], and [146] of Fig. 1 and Fig. 4 and the respective related descriptions thereof*).

Furthermore, Danieli teaches a sound device that is connected to the game controller of the video game player and can be received in a second memory card slot wherein the sound device comprises a third communication interface that comprises a third control circuit and a speaker, as microphone and a sound transmission wire (see [140], [144],[146] of Fig. 1 and the related description thereof) . Danieli's system is adapted to allow for the sound transmission wire to allow a signal communication between the respective devices to be used in a video game (see transmission wires [130], and [146] of Fig. 1). Although Danieli does not specifically teach a game controller with two separate memory card slots, the game controller disclosed in Danieli teaches of a memory card slot on a game controller and it would have been a duplication of parts to create a secondary memory card slot in the game controller and therefore would have been obvious to one of ordinary skill in the art at the time the invention was made. Furthermore, it is inherent in the speaker arts for the circuitry to have an on/off switch to control the devices and a mechanism to control the volume of the audio devices.

Regarding claims 3-8, 11-16, and 19-24, Danieli et al. teaches a sound device of a video game system wherein the video game controller is a palm joystick, steering wheel, dancing pad, joystick (see element [104(a-b)] of Fig. 1 and the related description thereof), flight joystick, and light beam controller gun. Although Danieli does not specifically teach all of these specific embodiments these are all well known and common equivalents in the gaming arts as common types of game controllers used in a gaming system. By incorporating the sound

device into a game system controller one would have been motivated to incorporate such a feature into all the various types of game controllers in the art. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the game controller taught in Danieli to be incorporated in a palm joystick, steering wheel, dancing pad, flight joystick, or a light beam controller.

Claims 2, 10, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danieli et al. (US 2003/0216181 A1) as applied to claims above, and further in view of Varma et al. (US 2004/0213419 A1).

Regarding claims 2, 10, and 18, Danieli et al. teaches a gaming system that allows a player to communicate using a microphone and speaker connected through a memory card slot on the game controller in an online computer game. However, Danieli is silent with respect to a second control circuit that comprises an auto-gain circuit and a noise canceling circuit.

In a related gaming patent, Varma et al. teaches a game system that incorporates in a game controller a sound device wherein a second control circuit comprises an auto-gain circuit for balancing an over loud volume sound or a low volume sound (*see Fig. 10 and the related description thereof*). Additionally, Varma teaches a second control circuit in the sound device that comprises a noise or echo canceling circuit for canceling an echo (*see Fig. 9-10 and the related description thereof*). One would be motivated to incorporate such a feature into a game system in order to reduce distractions while playing a video

game. As taught by Varma, many other noises can be distracting to a user and changes in volume can occur which can reduce the sound quality of the speech in the game (see *paragraph [0032-0035]*). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Varma and the auto-gain and noise canceling circuitry into the gaming system of Danieli.

Conclusion

Any inquiry concerning this communication or earlier communication from the examiner should be direct to Ryan Hsu whose telephone number is (571)-272-7148. The examiner can normally be reached on M-F 8:30 AM - 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E Pezzuto can be reached at (571)-272-6996.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, contact the Electronic Business Center (EBC) at 1-866-217-9197 (toll-free).



RH

January 3, 2008



ROBERT E. PEZZUTO
SUPERVISORY PRIMARY EXAMINER